

**OPINION
73-404**

October 1, 1973 (OPINION)

Mr. T. N. Tangedahl, ACSW
Executive Director
Department of Social Services
State Capitol
Bismarck, ND 58501

Dear Mr. Tangedahl:

This is in response to your letter with regard to liability of State Social Services Board, area social service centers and staff members thereof for injury done to others, in the course of rendering social services in the course of the employment of such staff members.

You inform us that the Social Service Board of North Dakota as an integral part of its organization and function has established offices in various places in the state which are designated as Area Social Service Centers.

You inform us that these centers are staffed by state employees and their professional staff consists of social workers and may include psychologists, psychiatric consultants, alcoholism counselors, educational counselors and youth correctional representatives. You inform us that the center staff works closely with other agencies, institutions, individuals families, or courts involved in the "helping" profession.

You inform us that the staffs provide counseling with individuals and families, evaluations for courts and schools; consultation with other agencies, advice and information as to whether persons may obtain additional specialized help and that the problems are considered confidential and are discussed only with other professionals when they are in a position to help. You inform us further that all of the above are social services rendered under authority of the Social Security Act, HEW Regulations issued thereunder and state law and rules and regulations of the Social Service Board issued thereunder.

You inform us further that specific areas of social service rendered include but are not limited to requests by county welfare directors for evaluations in adoption cases, requests for social services in cases of child neglect, dependency, delinquency, unmarried parenthood, physical handicap, mental retardation, emotional disturbance, behavior problems, district and juvenile court judges requests in criminal and juvenile cases for social psychological evaluations, predisposition reports, treatment, probation and aftercare service.

You state that the Social Service Board of North Dakota and its Area Social Service Centers is a department of state government of the State of North Dakota. You state further that:

"Giving consideration to the aspect of governmental immunity of a governmental agency, the question of governmental or

proprietary function, the laws and court decision of the State of North Dakota, express or implicit waiver of immunity by the state, your '(our)' opinion is requested as to whether or not a staff member of the Area Social Service Center, the Social Service Board of North Dakota, or the members thereof are liable or immune from liability for the acts of the staff of the Area Social Service Centers when individual, family or agency claims injury due to the acts of such staff member in rendering social service in the course of their employment and for such area social service centers."

Generally speaking, the State of North Dakota, a staff member of the area social service center (as such), the social service board of North Dakota and the members thereof are immune from liability for acts of the staff of the area social service centers when individual, family or agency claims injury due to the acts of such staff member in rendering social service in the course of their employment and for such area social service centers. We are not, of course, suggesting that staff members guilty of a deliberate tort, or culpably negligent in the causation of tortious injury would escape personal responsibility therefor, that the employees or officers are not subject to criminal prosecution for violation of the criminal statutes of the state or that such officers and employees in proper cases would not be subject to injunctive or mandamus type of actions, to require cessation of improper function or to properly fulfill the responsibilities of their offices or employment.

We hope the within and foregoing will be sufficient for your purposes.

Sincerely yours,

Allen I. Olson

Attorney General

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October 4, 1984

MEMORANDUM

TO: Jerry Fossum

Central Data Processing

FROM: Fran Ely

Data Processing Coordinator

RE: Bill Status Subscribers

The following Social Service offices have been granted access to the 1985 bill status information system:

Hettinger County

P.O. Box 339

Mott, ND 58646 Attention: Chuck Sanderson

McClusky, Mercer, Sheridan County

Social Services

Box 70

Washburn, ND

Cavalier County Social Services

Box 630

Langdon, ND Attention: Richard Mowbray

FLE/gav